

AMENDMENTS TO LB 1047

Introduced by Judiciary Committee:

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 28-311.02, Revised Statutes Cumulative
4 Supplement, 2004, is amended to read:

5 28-311.02 (1) It is the intent of the Legislature to
6 enact laws dealing with stalking offenses which will protect
7 victims from being willfully harassed, intentionally terrified,
8 threatened, or intimidated by individuals who intentionally follow,
9 detain, stalk, or harass them or impose any restraint on their
10 personal liberty and which will not prohibit constitutionally
11 protected activities.

12 (2) For purposes of sections 28-311.02 to 28-311.05,
13 28-311.09, and 28-311.10:

14 (a) Harass means to engage in a knowing and willful
15 course of conduct directed at a specific person which seriously
16 terrifies, threatens, or intimidates the person and which serves no
17 legitimate purpose; and

18 (b) Course of conduct means a pattern of conduct composed
19 of a series of acts over a period of time, however short,
20 evidencing a continuity of purpose, including a series of acts
21 of following, detaining, restraining the personal liberty of,
22 or stalking the person or telephoning, contacting, or otherwise
23 communicating with the person;

1 (c) Family or household member means a spouse or former
2 spouse of the victim, children of the victim, a person presently
3 residing with the victim or who has resided with the victim in
4 the past, a person who had a child in common with the victim,
5 other persons related to the victim by consanguinity or affinity,
6 or any person presently involved in a dating relationship with
7 the victim or who has been involved in a dating relationship with
8 the victim. For purposes of this subdivision, dating relationship
9 means frequent, intimate associations primarily characterized by
10 the expectation of affectional or sexual involvement but does not
11 include a casual relationship or an ordinary association between
12 persons in a business or social context; and

13 (d) Substantially conforming criminal violation means
14 a guilty plea, a nolo contendere plea, or a conviction for
15 a violation of any federal law or law of another state or
16 any county, city, or town ordinance of this state or another
17 state substantially similar to section 28-311.03. Substantially
18 conforming is a question of law to be determined by the court.

19 Sec. 2. Section 28-311.03, Revised Statutes Cumulative
20 Supplement, 2004, is amended to read:

21 28-311.03 Any person who willfully harasses another
22 person or a family or household member of such person with
23 the intent to injure, terrify, threaten, or intimidate commits the
24 offense of stalking.

25 Sec. 3. Section 28-311.04, Reissue Revised Statutes of
26 Nebraska, is amended to read:

27 28-311.04 ~~Any~~ (1) Except as provided in subsection (2) of

1 this section, any person convicted of violating section 28-311.03
2 ~~shall be~~ is guilty of a Class I misdemeanor.

3 (2) Any ~~except~~ that any person convicted of violating
4 ~~such~~ section 28-311.03 is guilty of a Class IV felony if:

5 (a) The person ~~who~~ has a prior conviction under such
6 section or a substantially conforming criminal violation within the
7 last seven years; ~~for acts committed against the same victim shall~~
8 be guilty of a Class IV felony.

9 (b) The victim is under sixteen years of age;

10 (c) The person possessed a deadly weapon at any time
11 during the violation;

12 (d) The person was also in violation of section
13 28-311.09, 42-924, or 42-925 at any time during the violation; or

14 (e) The person has been convicted of any felony in this
15 state or has been convicted of a crime in another jurisdiction
16 which, if committed in this state, would constitute a felony and
17 the victim or a family or household member of the victim was also
18 the victim of such previous felony.

19 Sec. 4. Original section 28-311.04, Reissue Revised
20 Statutes of Nebraska, and sections 28-311.02 and 28-311.03, Revised
21 Statutes Cumulative Supplement, 2004, are repealed.